

the child is entitled to child's benefits). For months prior to January 1973, the widow's or widower's benefit is reduced in the way described in the preceding sentence except that the percentage rate is $\frac{5}{100}$ of 1 percent multiplied by the number of months from age 60 to 62 instead of $\frac{19}{40}$ of 1 percent multiplied by the number of months from age 60 to 65.

(2) For those widows and widowers receiving benefits based on disability and whose entitlement begins prior to their attaining age 60, their benefits are—

(i) For months after December 1983, not subject to any reduction of their benefits in addition to that under paragraph (c)(1) of this section;

(ii) For the period January 1, 1973–December 31, 1983, subject to a reduction under paragraph (c)(1) of this section and an additional reduction formula of $\frac{43}{240}$ of 1 percent multiplied by: (A) The benefit before any reduction for age and (B) the number of months of entitlement to such benefit in the period beginning with month of attainment of age 50 and ending with the month preceding month of attainment of age 60; and

(iii) For months prior to January 1973, subject to the reduction formula described in paragraph (c)(2)(ii) of this section with, however, the percentage rate set at $\frac{43}{198}$ of 1 percent.

(d) Benefits reduced under this section may be later adjusted to eliminate reduction for certain months of entitlement prior to retirement age as provided in § 404.412. For special provisions on reducing benefits for months prior to retirement age involving entitlement to two or more benefits and for reducing widow's and widower's benefits on the earnings record of a deceased individual previously entitled to old-age insurance benefits, see §§ 404.411 and 404.338, respectively.

[49 FR 24116, June 12, 1984]

§ 404.411 Special reduction in benefits for age involving entitlement to two or more benefits.

(a) *General.* (1) Except as specifically provided in this section, benefits of an individual entitled to more than one benefit will be reduced for months of entitlement before retirement age ac-

cording to the provisions of § 404.410. Such age reductions are made before any reduction under the provisions of § 404.407.

(2) If an individual was born after January 1, 1928 and becomes disabled after December 31, 1989, his or her disability insurance benefits are reduced in accordance with paragraph (b)(1) of this section. In other situations involving prior receipt of widow's or widower's insurance benefits, disability insurance benefits are reduced in accordance with paragraph (b)(2) of this section.

(3) If an individual was born after January 1, 1928, his or her old-age insurance benefits are reduced in accordance with § 404.410(a). In other situations involving prior receipt of widow's or widower's insurance benefits, old-age insurance benefits are reduced in accordance with paragraph (c) of this section.

(b) *Reduction in disability insurance benefits after entitlement to old-age insurance benefits, widow's or widower's benefits.* An individual's disability insurance benefits are reduced following entitlement to old-age insurance benefits, widow's or widower's insurance benefits (or following the month in which all conditions for entitlement to widow's or widower's insurance benefits are met except that the individual is entitled to an old-age insurance benefit which equals or exceeds the primary insurance amount on which the widow's or widower's insurance benefit is based) in accordance with the following provisions:

(1) In the case of an individual entitled to disability insurance benefits for a month after the month in which he becomes entitled to an old-age insurance benefit which is reduced for age under § 404.410, the disability insurance benefit is reduced by the amount by which the old-age insurance benefit would be reduced under § 404.410 if he attained age 65 in the first month of his most recent period of entitlement to disability insurance benefits.

(2) In the case of an individual who is first entitled to disability insurance benefits for a month in which or after which he or she attains age 62 and for which he or she is first entitled to a widow's or widower's insurance benefit

(or would be so entitled except for entitlement to an equal or higher old-age insurance benefit as explained in the material preceding paragraph (b) of this section) before retirement age, the disability insurance benefits are reduced by the larger of:

(i) The amount the disability insurance benefit would have been reduced under paragraph (b)(1) of this section; or

(ii) The amount equal to the sum of the amount the widow's or widower's benefit would have been reduced under the provisions of § 404.410 if retirement age were 62 (instead of 65) plus the amount by which the disability insurance benefit would have been reduced under paragraph (b)(1) of this section if the benefit were equal to the excess of such benefit over the amount of the widow's or widower's benefit (without consideration of this paragraph (b)(2)) of this section.

(3) In the case of an individual who is first entitled to disability insurance benefits for a month before the month in which he or she attains age 62 and he or she is also entitled to a widow's or widower's insurance benefit (or would be so entitled except for entitlement to an equal or higher old-age insurance benefit as explained in the material preceding paragraph (b) of this section), the disability insurance benefit is reduced as if the widow or widower attained retirement age in the month immediately preceding the first month of his or her most recent period of entitlement to disability insurance benefits;

(c) *Reduction in old-age insurance benefits after entitlement to widow's or widower's insurance benefits.* An individual's old-age insurance benefit is reduced if, in his or her first month of entitlement to that benefit, he or she is also entitled to a widow's or widower's insurance benefit to which he or she was first entitled for a month before attainment of retirement age or if, before attainment of retirement age, he or she met all conditions for entitlement to widow's or widower's benefits in or before the first month for which he or she was entitled to old-age insurance benefits except that the old-age insurance benefit equals or exceeds the primary insurance amount on which

the widow's or widower's insurance benefit would be based. Under these circumstances, the old-age insurance benefit is reduced by the larger of the following:

(1) The amount by which the old-age insurance benefit would be reduced under the regular age reduction provisions of § 404.410; or

(2) An amount equal to the sum of:

(i) The amount by which the widow's or widower's insurance benefit would be reduced under § 404.410 for months prior to age 62; and

(ii) The amount by which the old-age insurance benefit would be reduced under § 404.410 if it were equal to the excess of the individual's primary insurance amount over the widow's or widower's insurance benefit before any reduction for age (but after any reduction for the family maximum under § 404.403).

(d) *Reduction in wife's or husband's insurance benefits when entitled to reduced old-age insurance benefits in the same month.* A wife's or husband's insurance benefit to which a person is first entitled in or after the month of attainment of age 62 is reduced if, in his or her first month of entitlement to that benefit, he or she is also entitled to an old-age insurance benefit (but is not entitled to a disability insurance benefit) to which he or she was first entitled for a month before attainment of age 65. Under these circumstances, the wife's or husband's insurance benefit is reduced by the sum of:

(1) The amount by which the old-age insurance benefit would be reduced under the provisions of § 404.410; and

(2) The amount by which the wife's or husband's insurance benefit would be reduced under the provisions of § 404.410 if it were equal to the excess of such benefit (before any reduction for age but after reduction for the family maximum under § 404.403) over the individual's own primary insurance amount.

(e) *Reduction in wife's, husband's, widow's or widower's insurance benefit because of entitlement to disability insurance benefits in the same month.* A wife's, husband's, widow's, or widower's insurance benefit to which a person is first entitled in or after the month of attainment of age 62 (or in the case of

widow's or widower's insurance benefits, age 50) is reduced if, in his or her first month of entitlement to that benefit, he or she is also entitled to a disability insurance benefit. Under these circumstances, the wife's, husband's, widow's, or widower's insurance benefit is reduced by the sum of:

(1) The amount (if any) by which the disability insurance benefit is reduced under paragraph (b)(1) of this section, and

(2) The amount by which the wife's, husband's, widow's, or widower's insurance benefit would be reduced under § 404.410 if it were equal to the excess of such benefit (before any reduction for age but after reduction for the family maximum under § 404.403) over the disability insurance benefit (before any reduction under paragraph (b) of this section).

[40 FR 30816, July 23, 1975, as amended at 55 FR 50551, Dec. 7, 1990]

§ 404.412 Adjustments in benefit reductions for age.

(a) *General.* The following months are not counted for purposes of reducing benefits in accordance with § 404.410;

(1) Months subject to deduction under § 404.415, § 404.417, or § 404.422;

(2) In the case of wife's or husband's insurance benefits, any month in which she or he had a child of the insured individual in her or his care and for which the child was entitled to child's benefits;

(3) In the case of wife's or husband's insurance benefits, any month for which entitlement to such benefits is precluded because the insured person's disability ceased (and, as a result, the insured individual's entitlement to disability insurance benefits ended);

(4) In the case of widow's or widower's insurance benefits, any month in which she or he had in her or his care a child of the deceased insured individual and for which the child was entitled to child's benefits;

(5) In the case of widow's or widower's insurance benefits, any month before attainment of age 62 and any month between age 62 and attainment of age 65 for which he or she was not entitled to such benefits;

(6) In the case of old-age insurance benefits, any month for which the indi-

vidual was entitled to disability insurance benefits.

(b) *Adjustment by Social Security Administration.* Adjustments in benefits to exclude those months of entitlement which are described in paragraphs (a) (1) through (6) of this section from consideration in determining the amount by which such benefits are reduced are made automatically. Each year the Social Security Administration examines beneficiary records to identify those instances in which an individual has attained age 65 (or age 62 in the case of widow's or widower's insurance benefits) and one or more months described in paragraphs (a) (1) through (6) of this section occurred prior to such age during the period of entitlement to benefits reduced for age. Increases in benefit amounts based upon this adjustment are effective with the month of attainment of age 65, or in the case of widow's and widower's insurance benefits, the month of attainment of age 65 or age 62 (whichever applies).

[40 FR 30817, July 23, 1975, as amended at 49 FR 24117, June 12, 1984]

§ 404.413 Reduction in benefits for age following an increase in primary insurance amounts.

(a) *General.* When an individual's benefits have been reduced for age under the provisions of §§ 404.410 through 404.411, the primary insurance amount on which such benefits are based may be subsequently increased because of recomputation, a general benefit increase pursuant to an amendment of the Act, or increases based upon rises in the cost-of-living under section 215(i) of the Social Security Act. Where the individual's benefits are increased because of an increase in the primary insurance amount, such benefits are reduced separately under §§ 404.410 and 404.411. The benefit amount for months before the effective date of the increase in the primary insurance amount is reduced under § 404.410 (and § 404.411, if applicable) and added to the amount of increase in benefit amount which has been reduced for months of entitlement to the increase prior to the individual's retirement age; the resulting sum will be the total benefit amount to which the individual is entitled for the month of such increase and months thereafter.